

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

WINSTON KEMPER,)	No. C 07-4666 JSW (PR)
)	
Petitioner,)	ORDER DENYING MOTION TO
)	AMEND
vs.)	
)	
JAMES YATES, Warden,)	(Docket No. 23)
)	
Respondent.)	
)	

Petitioner, a prisoner of the State of California, currently incarcerated in Coalinga, California, filed a habeas corpus petition pursuant to 28 U.S.C. § 2254 challenging the constitutionality of his state conviction. Petitioner subsequently filed an amended petition on February 27, 2008. The unexhausted claims in the amended petition were stricken, and the case was stayed in order to allow Petitioner time to exhaust them. Petitioner was instructed that after exhausting his claims, he should file a motion to amend in order to add the newly exhausted claims. Petitioner has filed a motion to amend in which he states that he would like to add his newly-exhausted claims. The problem is that Petitioner has not indicated or described what claims he has exhausted. Consequently, the motion to amend (docket number 23) is DENIED.

Within thirty days of the date this order is filed, Petitioner shall file a motion to lift the stay in which he identifies what claims from his amended petition have been exhausted. If he does so, the newly-exhausted claims in the amended petition will be

1 reinstated, the stay will be lifted, and Respondent will be ordered to show cause why a
2 writ of habeas corpus should not issue based on the exhausted claims in the amended
3 petition.

4 IT IS SO ORDERED.

5 DATED: February 25, 2011

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8 JEFFREY S. WHITE
United States District Judge
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